Proceedings of the Government of His Highness the Maharaja of Mysore, Petition, dated 4th May 1904.

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Appeal No. 87 of 1903-04.

Appellant	*Versus*	*Respondent*
Mahabub Unnissa Begum, by her Agent Mr. M. Hassan Ali.		Seenappa.

Subject.

Appeal against the order of the Deputy Commissioner of the Bangalore District directing the adoption of coercive measures under Section 98 of the Land Revenue Code, for the recovery of the assessment claimed by the respondent on certain lands held by the appellant in the Kayamgutta village of Hommadevanhalli in the Bangalore Taluk.

The facts of the case are clear from the following :—

Decision.

Hommadevanhalli is a Kayamgutta village in the Bangalore Taluk. The respondent Seenappa is the Kayamguttadar thereof as also its shanbhog. The appellant is the occupant of certain lands in that village, being the daughter of the late Mr. Syed Nassir Uddin Saheb who had acquired the same by purchase from a certain individual who in his turn is said to have held it on a fixed reduced rental under a permanent tenure created by the Kayamguttadar. At the instance of the Kayamguttadar, the provisions of Chapters VIII and IX of the Land Revenue Code were applied to this village under the Notification of Government, No. 78, dated the 6th July 1897. The village was surveyed and settled accordingly. A notice appears to have been sent to the widow of the deceased Mr. Nassir Uddin Saheb, but not to his daughter, the appellant who was the person really interested according to the Deputy Commissioner's order of the 16th June 1903 appealed from. Neither the widow's omission to make a proper representation in view to the necessary enquiry being instituted nor the first year's payment made by her of the enhanced assessment can be taken to so prejudicially affect the appellant as to be fatal to her case. It is true that a general notice was sufficient and that an individual notice was not indispensable. But having regard to the fact that the appellant is a pardanashin lady not residing on the spot, she ought not in fairness to be held precluded from afterwards asking for a revision of the settlement within a reasonable time of her coming to know of it. The rules were announced and the settlement introduced in July 1899 with the result that notwithstanding the substantial diminution of her holding complained of, the assessment payable by the appellant and which, according to her, was unalterable, was increased fully five-fold, *i.e.*, from Rs. 42-4-0 (or Rs. 43-9-0 including cess) to Rs. 208 (or Rs. 221 including cess). On the 19th October 1900 and again on the 6th April 1901, the appellant sent up petitions contending that she had certain legally subsisting rights which she could not bring to notice at the time of the settlement operations and which therefore were not enquired into and taken into account in fixing the assessment and further that a portion of her holding had been excluded from it instead of being registered in her name. These, then, were applications for action being taken both under Section 111 (3) and under Section 118, para 2, of the Land Revenue Code. In regard to the former the law prescribes no time while in regard to the latter the requirement of the law was complied with. There was no proper enquiry, but the papers were sent backwards and forwards with the result that ultimately the Deputy Commissioner dealt with the appellant's representation along with the application made by the respondent for assistance under Section 97 and rejected the one and acceded to the other in his order of the 16th June 1903.

2. Government are of opinion that the appellant has not had an opportunity of showing under Section 111, clause 3, that she had certain rights which entitled her to the benefit of the provisions of the Proviso to Section 50 and that, moreover, the entry in respect of a portion of No. 61 and the whole of No. 73 was wrong and required correction by the insertion of her name as the registered occupant thereof. Government further observe that until suitable final orders after due investigation are passed on these points, the respondent is not entitled to the assistance provided for in Sections 97 and 98 and that the Deputy Commissioner would have exercised a wise discretion if, on account of the complicated nature of the dispute between the parties, he had, under para 2 of the last mentioned section, refused the assistance asked for.

3. With these observations the record will be sent to the Survey and Settlement Commissioner with a request that the appellant's allegations be properly enquired into and such orders passed as to him may seem satisfactory.

No. 1380—P. F. 167-03, DATED BANGALORE, 4TH MAY 1904.

Copy of the above is forwarded to the Survey and Settlement Commissioner, together with the vernacular records received with the Bangalore District Deputy Commissioner's letter No. 616, dated the 18th January 1904, and with a copy of the appeal petition No 1144, dated the 9th November 1903, presented by the appellant to Government.

No. 1381—P. F. 167-03, DATED BANGALORE, 4TH MAY 1904.

Copy of the above is forwarded to the Deputy Commissioner, Bangalore District, for information and guidance with reference to his letter No. 616, dated 18th January 1904.

L. ANANTASAMI RAO,
Offg. Secy. to Govt., Gen. & Rev. Depts.